

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

OCT 1 2006

JOHN F. CORCORAN, CLERK
BY: *S. Superior*
DEPUTY CLERK

In accordance with the memorandum opinion entered this day, it is now

ORDERED

that the petitioner's motion for relief under Rule 60(b) of the Federal Rules of Civil Procedure shall be and hereby is **CONSTRUED** as a motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255, and **DISMISSED** without prejudice as successive.

The Clerk is directed to strike the action from the active docket of the court, and send certified copies of this order and the accompanying memorandum opinion to the petitioner and counsel of record for the respondent.

ENTER: This 30th day of October, 2006.

Jim Clark
United States District Judge